

## REMARKS

This paper is submitted in response to the pending final Office Action mailed on February 9, 2006. Because this Response is submitted with a certificate of mailing in compliance with 37 C.F.R. §1.8 on or before the shortened period for reply set to expire on **May 9, 2006** this Response is timely filed. This Response is submitted contemporaneously with a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, and a fee payment in the amount of \$790.00 for the RCE fee set forth under 37 C.F.R. §1.17(e) is hereby authorized.

### I. STATUS OF THE CLAIMS

Prior to this response, claims 1, 5 to 7, 10 and 11 and at issue. By this response, claims 1 and 7 have been amended, and new claims 12 to 17 have been added to clarify the subject matter for which protection is sought. The new claims have been added to ensure clarity and consistency, and not to address any pending rejection or other statutory deficiency. This application contains four (4) independent claims and less than twenty (20) total claims. A fee payment in the amount of \$200.00 is authorized in accordance with 37 C.F.R. §1.16(h) for the one (1) new independent claim. Thus, claims 1, 5 to 7, 10 to 17 are pending and at issue in this application.

The total fees believed due in connection with this Response and the RCE are \$990.00, however, please charge **Deposit Account No. 02-1818** for any fees deemed owed.

New claims 12 to 17 are directed to, among other things, a battery pack having a lower case that includes a sidewall defining an interior sized to carry electrically connected battery and circuit blocks within the interior, and an upper case includes a sidewall defining an interior sized to enclose and removable engage the sidewall of the lower case in a nested manner. Applicants submit that these new claims are submitted to clearly define the subject matter for which protection is sought, and that no new matter has been added. Furthermore, Applicants assert that these new claims are not submitted for any reason related to patentability, to disclaim any subject matter, to overcome any reference of record or for any statutory reason.

### II. INTERVIEW SUMMARY

Applicants wish to thank Examiner Grant for the help and cooperation afforded Applicants' representative Matthew T. Ridsdale, Reg. No. 56,832, during the telephonic interview conducted on April 10, 2006. Applicants' representative and Examiner Grant

discussed the amendments and the pending rejections. Applicants' representative and Examiner Grant agreed that the proposed amendments are patentable over *Watts*, *Bryant* or any combination of these references and clarify the subject matter originally presented and inherent to these pending claims. In light of these clarifying amendments and the remarks presented herein, Applicants submit that claims 1, 5 to 7, 10 to 17 are now in condition for allowance.

### III. CLAIMS REJECTIONS

The Office Action rejects: claim 1 was under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,534,366 to Hwang et al. ("*Hwang*") in view of U.S. Patent No. 6,492,058 to Watanabe et al. ("*Watanabe*") in view of U.S. Patent No. 4,659,636 to Suzuki et al. ("*Suzuki*"), and U.S. Patent No. 5,436,969 to Kobayashi ("*Kobayashi*") and further in view of U.S. Patent No. 5,929,600 to Hasegawa ("*Hasegawa*") in view of U.S. Patent No. 6,491,536 to Torri ("*Torri*"); claims 5 and 6 under 35 U.S.C. §103(a) as being obvious in view of *Hwang* in view of *Watanabe* in view of *Suzuki* in view of *Kobayashi* and further in view of U.S. Patent No. 6,387,567 to Noh ("*Noh*"); claim 7 under 35 U.S.C. §103(a) as being obvious in view of *Hasegawa* in view of U.S. Patent No. 5,818,198 to Mito et al. ("*Mito*") in view of *Torri* and in view of *Noh*; and claims 10 and 11 under 35 U.S.C. §103(a) as being obvious in view of *Hasegawa* in view of *Mito* and further in view of *Hwang*.

Applicants respectfully submit that none of the above-identified references, either alone or in combination, forms a proper basis for establishing a *prima facie* case of obviousness<sup>1</sup>. In particular, none of the cited references discloses an outer case having a lower case with a sidewall defining an interior and an upper case having a sidewall sized to enclose and removably engage the sidewall of the lower case in a nested manner, much less a notch formed within the sidewalls or an external connector accessible via the notch. Because at least these elements are entirely missing from the cited references, the requisite criteria for establishing a *prima facie* case of obviousness have not been established.

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<sup>1</sup> To establish a *prima facie* case of obviousness, three basic criteria must be met.:

- (a) First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.
- (b) Second, there must be a reasonable expectation of success.
- (c) Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2143 - §2143.03 for decisions pertinent to each of these criteria.

#### IV. CONCLUSION

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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